

**PT 19-05**

**Tax Type: Property Tax**

**Tax Issue: Charitable Ownership/Use**

**STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS**

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**THE DEPARTMENT OF REVENUE  
OF THE STATE OF ILLINOIS**

v.

**LIFELINE TO AFRICA, INC.**

**Applicant**

Docket # 18-PT-028

Tax Year 2017

Dept. Docket # 17-48-50

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**RECOMMENDATION FOR DISPOSITION**

Appearances: Robin Gill, Special Assistant Attorney General, for the Department of Revenue of the State of Illinois; Peter Carstens, *pro se*, for Lifeline to Africa, Inc.

Synopsis:

Lifeline to Africa, Inc. (“applicant” or “Lifeline”) filed an application for a property tax exemption for the year 2017 for four parcels of property located in Knox County. The Knox County Board of Review recommended that the parcels receive an exemption, and the Department of Revenue (“Department”) disagreed with the Board’s determination. The applicant timely protested the Department’s decision to deny the exemption, and an evidentiary hearing was held. The applicant alleges that it is entitled to a charitable purposes property tax exemption pursuant to section 15-65 of the Property

Tax Code (35 ILCS 200/1-1 *et seq.*) on the basis that the property is owned by a charitable organization, used exclusively for charitable purposes, and not used with a view to profit. The applicant uses the property to provide health and lifestyle education for the general public as well as food and lodging. For the following reasons, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACT:

1. The applicant is a New York not-for-profit corporation that was organized on February 10, 2004. (Dept. Ex. #1, p. 30)
2. According to the articles of incorporation, the purposes for which the corporation was formed are as follows:

Said corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

The corporation will solicit and accept funds to be used to support medical missionary work in Mozambique, particularly supporting efforts to treat and alleviate the Aids crisis in that area.

Nothing contained in the Certificate of Incorporation shall authorize the corporation to establish, operate or maintain a hospital, a home care services agency, a hospice, a health maintenance organization, or a comprehensive health services plan, as provided for by Articles 28, 36, 40, and 44 respectively, of the Public Health Law, or to provide hospital service or health related service, or to solicit any funds, contributions or grants, from any source, for the establishment or operation of any hospital.

Nothing contained in the Certificate of Incorporation shall authorize the corporation to establish, operate or maintain an adult care facility as provided for by Article 7 of the Social Services Law, or to solicit contributions for any such purposes.

Nothing herein shall authorize the corporation to engage in the practice of the profession of medicine or any other profession

required to be licensed by Title VIII of the Education Law. (Dept. Ex. #1, pp. 31-32)

3. According to the applicant's federal Form 990, Return of Organization Exempt from Income Tax, for the year 2017, the applicant's mission is as follows:

The [applicant's] mission is to provide educational and instructional services by assisting individuals to live a healthier lifestyle and realize an existence free of chronic diseases and needless pain through counseling, empowering life principles talks and life-enhancing therapies. (Dept. Ex. #1, p. 126)

4. The applicant is dedicated to public health education and has served the public in preventing and reversing obesity, diabetes and other degenerative diseases. The applicant has stated its objective as follows:

The objective of our center is to train people with tools and the knowledge to make intelligent choices regarding their own health, and to be able to assist their body in recuperating from any adverse condition. Experience has demonstrated that people, after completing the training program, are able to influence their families, friends, and neighbors to make better choices in regards to their personal health. Many people come to our training facility each month and they see tremendous health improvements. (Dept. Ex. #1, p. 10)

5. On October 27, 2014, Good Samaritan Sanitarium & Hospital, Inc. donated to the applicant the four parcels of property that are at issue in this case. (Dept. Ex. #1, pp. 43-45)
6. Parcel number 10-28-180-001, known as 407 N. Hebard Street in Knoxville, has a "training facility" with approximately 17,664 square feet. The facility is known as the Lifeline Wellness Center ("Center") and consists of three buildings that are connected and cover the entire lot. The facility was formerly used as a nursing home. (Tr. pp. 17-18; Dept. Ex. #1, pp. 4, 10, 12, 26, 43, 47)

7. The Center is currently used for several purposes. It is used as living quarters for temporary guests and volunteers who work for the applicant. The Center is also used for lectures on healthy living. The Center has group discussion rooms, a library, and individual study rooms. The kitchen is used for cooking classes and instructions on food preparation. In addition, the Center has administrative offices. (Tr. pp. 17-18; Dept. Ex. #1, pp. 4, 10, 47)
8. Parcel number 10-28-180-002, known as 405 N. Hebard Street in Knoxville, has a two-story home with approximately 1,204 square feet and three bedrooms. The applicant's president, Peter Carstens, and his wife live in the home, and the two guest bedrooms are sometimes used by guest speakers or other visitors of the Center. The kitchen is sometimes used for cooking classes. The remaining land on the lot is used for gardening, and the food that is grown there is used at the Center. (Tr. pp. 16-17; Dept. Ex. #1, pp. 4, 10, 15, 47)
9. Parcel number 10-28-180-004 is an empty lot that is used solely for organic gardening. The food that is grown there is used at the Center. Approximately 50 to 70% of the produce that is used at the Center is grown on the applicant's parcels. (Tr. pp. 12-14; Dept. Ex. #1, pp. 4, 11, 47)
10. Parcel number 10-28-180-007, known as 309 E. Depot Street in Knoxville, has a two-story home with approximately 1,200 square feet. The applicant's engineer, Kenneth Calef, and his family live in the home. The family lives in one part of the home and are renovating the rest of the home. The remaining land on the lot is used for gardening, and the food that is grown there is used at the Center. (Tr. pp. 14-15; Dept. Ex. #1, pp. 4, 11, 17, 47)

11. Mr. Calef maintains the Center and the residences and does not pay rent for staying in the home. Mr. Calef and his family eat with the other volunteers and visitors at the Center. (Tr. pp. 15, 56)
12. Approximately 18 volunteers live at the Center (including children), and there are rooms for approximately 25 to 30 additional people to stay there. If more space is needed for people to stay, the residences are used. (Tr. pp. 26-27)
13. The volunteers do not pay anything to stay there, but they help with the operations of the Center. Volunteers do things such as cooking, cleaning, and gardening. Each volunteer has a specific task, and in addition to that, they interact with the guests on a personal and spiritual level by eating with them and praying with them. (Tr. pp. 28, 62-65)
14. The guests must call the applicant's office and make a reservation to stay at the Center. The applicant does not have a screening process, but the guests must be able to take care of themselves or bring someone with them who can take care of them. (Tr. pp. 21-23)
15. The applicant currently does not have a waiting list for guests. (Tr. p. 23)
16. The applicant asks the guests for a "suggested donation," which varies a little bit depending on the applicant's financial situation. The highest amount is between \$XXXX and \$ XXXX, which includes everything (lodging, food, and educational training) for about 17 days. (Tr. pp. 24, 28)
17. The suggested donation for people who go to the Center for one day and have a health screening is between \$XXX and \$XXX. (Tr. p. 48)

18. The applicant asks the guests to donate because doing so creates “more appreciation and commitment for the program.” (Tr. p. 30)
19. Sometimes guests give more than the suggested donation. (Tr. pp. 48-49)
20. The applicant does not have a written policy concerning the reduction or waiver of fees. (Dept. Ex. #1, p. 24)
21. The applicant does not advertise. People hear about the Center through word of mouth. (Tr. pp. 19-21)
22. The applicant provides its information on the internet, and the president’s lectures are on YouTube. (Tr. pp. 20, 32)
23. The applicant does not compensate its president and does not have any other officers. The applicant also does not compensate its Board of Directors. (Dept. Ex. #1, pp. 10, 61)
24. According to the applicant’s federal Form 990 for the year 2017, the applicant’s income and expenses included the following:

Revenue

Contributions and grants	\$ XXXXXXX
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Expenses

Accounting	XXXX
Other <sup>1</sup>	XXXXX
Office expenses	XXXX
Information technology	XXXX
Occupancy	XXX
Travel	XXXXX
Interest	XXXX
Depreciation	<u>XXXXX</u>
Total expenses	\$XXXXXXX

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<sup>1</sup> “Other” includes various expenses such as bank charges, contract labor, equipment rental maintenance, taxes, and utilities. (Dept. Ex. #1, pp. 126-127)

Net income  
64)

\$ XXXXX (Dept. Ex. #1, pp. 55,

25. The applicant did not break down its income between pure donations and “donations” for which some type of service was provided. (Tr. pp. 48, 52-53)
26. The applicant does not have capital, capital stock, or shareholders. (Dept. Ex. #1, pp. 30-34)
27. The applicant is exempt from the retailers’ occupation tax and use tax pursuant to a determination made by the Department. (Dept. Ex. #1, p. 6)

#### CONCLUSIONS OF LAW:

It is well-established under Illinois law that taxation is the rule, and tax exemption is the exception. Eden Retirement Center, Inc. v. Department of Revenue, 213 Ill. 2d 273, 285 (2004). “[A]ll property is subject to taxation, unless exempt by statute, in conformity with the constitutional provisions relating thereto.” *Id.* Statutes granting tax exemptions must be strictly construed in favor of taxation. *Id.* at 288; Chicago Patrolmen’s Association v. Department of Revenue, 171 Ill. 2d 263, 271 (1996); People ex rel. County Collector v. Hopedale Medical Foundation, 46 Ill. 2d 450, 462 (1970). All facts are to be construed and all debatable questions resolved in favor of taxation. Eden Retirement Center, Inc., at 289. Every presumption is against the intention of the State to exempt the property from taxation. Oasis, Midwest Center for Human Potential v. Rosewell, 55 Ill. App. 3d 851, 856 (1<sup>st</sup> Dist. 1977). Whenever doubt arises, it must be resolved in favor of requiring the tax to be paid. Quad Cities Open, Inc. v. City of Silvis, 208 Ill. 2d 498, 508 (2004).

The burden of proof is on the party who seeks to qualify its property for an exemption. Eden Retirement Center, Inc., *supra*; Chicago Patrolmen's Association, *supra*. “The burden is a very heavy one.” Provena Covenant Medical Center v. Department of Revenue, (“Provena I”) 236 Ill. 2d 368, 388 (2010); Oasis, Midwest Center for Human Potential, *supra*. The party claiming the exemption bears the burden of proving by clear and convincing evidence that the property in question falls within both the constitutional authorization and the terms of the statute under which the exemption is claimed. Eden Retirement Center, Inc., *supra*; Board of Certified Safety Professionals of the Americas, Inc. v. Johnson, 112 Ill. 2d 542, 547 (1986) (citing Coyne Electrical School v. Paschen, 12 Ill. 2d 387, 390 (1957)).

Authority to grant property tax exemptions emanates from article IX, section 6 of the Illinois Constitution of 1970. Section 6 authorizes the General Assembly to exempt certain property from taxes and provides, in part, as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes. Ill. Const. 1970, art. IX, §6.

Pursuant to this constitutional authority, the General Assembly enacted section 15-65 of the Property Tax Code, which allows exemptions for charitable purposes and provides, in relevant part, as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

(a) Institutions of public charity.... 35 ILCS 200/15-65(a).



Property may be exempt under this subsection if it is (1) owned by an entity that is an institution of public charity; (2) actually and exclusively used for charitable purposes; and (3) not used with a view to profit. *Id.*; Chicago Patrolmen's Association, *supra*. Whether property is actually and exclusively used for charitable purposes depends on the primary use of the property. Methodist Old Peoples Home v. Korzen, 39 Ill. 2d 149, 156-57 (1968). Incidental acts of charity by an organization are not enough to establish that the use of the property is charitable. Morton Temple Association, Inc. v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3<sup>rd</sup> Dist. 1987).

The Illinois Supreme Court set forth the constitutional standards for a charitable purposes exemption in Methodist Old Peoples Home, *supra*, and reiterated them in Eden Retirement Center, Inc., *supra*, and Provena I, *supra*. The following guidelines are characteristics of a charitable institution: (1) the organization has no capital, capital stock or shareholders; (2) the organization earns no profits or dividends but rather derives its funds mainly from public and private charity and holds them in trust for the objects and purposes expressed in its charter; (3) the organization dispenses charity to all who need and apply for it; (4) the organization does not provide gain or profit in a private sense to any person connected with it; (5) the organization does not appear to place any obstacles in the way of those who need and would avail themselves of the charitable benefits it dispenses; and (6) the primary purpose for which the property is used, and not any secondary or incidental purpose, must be charitable. Methodist Old Peoples Home, at 156-57. For purposes of applying these criteria, the court defined charity as “a gift to be applied ... for the benefit of an indefinite number of persons, persuading them to an educational or religious conviction, for their general welfare--or in some way reducing

the burdens of government.” *Id.* Having a charitable exemption from income taxes or from retailers’ occupation and use taxes is not determinative of whether an applicant is entitled to a charitable exemption from property taxes. See Hopedale Medical Foundation, at 464.

The Department concedes that the applicant has no capital, capital stock, or shareholders, and the organization did not provide gain or profit in a private sense to any person connected with it during 2017. The Department argues, however, that the record does not contain any charitable activity. The Department contends that the applicant merely provides a service for a suggested donation, and nothing indicates that the applicant provides services that are charitable.

The Department also argues that there is little or no evidence that the applicant derives its funds mainly from public or private charity. Virtually all of the money collected by the applicant during 2017 was from guests who were at the Center receiving services, and the Department believes that the applicant is essentially a fee for service organization. With respect to whether the applicant dispenses charity to all who need and apply for it and whether obstacles are in the way of those seeking charitable benefits, the Department contends that the record does not have any activity that could be characterized as charitable. Guests must make a reservation, and there is a suggested donation based on the length of stay. In exchange for the payment, guests receive religious instruction, dietary education and training, life counseling, food, and lodging.

With respect to whether the property is primarily used for charitable purposes, the Department contends that part of the property is used as living quarters for the applicant’s president and his wife, the applicant’s engineer and his family, and approximately 18

volunteers, and using the property as a personal residence is not considered a charitable activity. Even though none of these people are paying rent to reside on the property, they are involved in the maintenance of the facility, the growing of the food, and providing services to the guests. The Department contends that the applicant has failed to demonstrate that it meets the statutory and constitutional requirements for a charitable purposes property tax exemption.

The applicant argues that it is entitled to the exemption because it is dedicated to helping the community in a charitable way. None of the people who work for the applicant receive compensation for their work. The applicant claims that it is driven by the purpose of helping the community transform their lives with respect to diseases and mental illnesses. The applicant claims to have a “purity of purpose” because it is not driven by people who want to make money. (Tr. p. 32) The applicant is driven by people who desire to help other people live healthier lives. The applicant argues that the fee is to cover costs, and the fee “stimulates ... them to really get committed to the program.” (Tr. p. 33) The applicant’s president travels to teach people outside of the Center how to overcome diseases. The people who go to the Center to live are usually people who “don’t have the self-control to make changes in their life.” (Tr. p. 25) The applicant argues that it reduces a burden on government because some of its guests have been ill with diseases such as cancer, and the applicant allows them to live and eat there, and their children can stay there as well. (Tr. pp. 22-23) The applicant hopes to receive a property tax exemption so that it can expand and do more things for the community.

For purposes of applying the guidelines in Methodist Old Peoples Home, *supra*, the court defined charity as “a gift to be applied ... for the benefit of an indefinite number

of persons, persuading them to an educational or religious conviction, for their general welfare--or in some way reducing the burdens of government.” The applicant does not reduce a burden on government because the guests who stay at the Center must be able to take care of themselves or bring someone with them who can take care of them. Although the applicant may assist people with living healthier lifestyles, the applicant does not relieve the government of any burden of taking care of these people.

More importantly, the evidence does not support a finding that the applicant provides a sufficient amount of “charity” to constitute the primary purpose of the organization. Charity is a gift, and a gift is “a voluntary transfer of property by one to another without any consideration or compensation therefor.” In re Estate of Berbecker, 277 Ill. App. 201 (1<sup>st</sup> Dist. 1934); see also Provena Covenant Medical Center v. Department of Revenue, 384 Ill. App. 3d 734, 751 (4<sup>th</sup> Dist. 2008), *aff’d*, 236 Ill. 2d 368 (2010) (“Provena II”) (a gift is, by definition, free goods or services). Although the applicant refers to the payments from its guests as “suggested donations,” the suggested donations vary depending on the applicant’s financial situation, and the testimony was clear that the applicant expects to be paid for its services. The director of the Center, Mr. Irizarry, testified that even though some people have been allowed to stay at the Center for free, he “used to be more lenient...but I saw that the people didn’t benefit as much when they weren’t – they were getting everything for free....I mean they didn’t appreciate it as much.” (Tr. p. 30) He said that the applicant asks the guests to donate because there is “more appreciation and commitment for the program.” *Id.* The applicant’s president testified that the applicant charges “a little amount of money,” but that it is low compared to what others charge. (Tr. p. 9) He said that sometimes the

applicant allows people to stay at its facility without paying, but it is “not very often” because the applicant does not have the money. *Id.* He testified that “We have to ask them for a minimum donation because if not we’ll go broke.” (Tr. p. 24) The applicant did not provide a list of its “suggested donations.”

Expecting to be paid for services and writing off amounts only when they cannot be collected is more akin to operating a business rather than a charity. See Alivio Medical Center v. Department of Revenue, 299 Ill. App. 3d 647, 652 (1<sup>st</sup> Dist. 1998) (writing off a bad debt is not tantamount to providing charity). The applicant’s goal of encouraging healthier lifestyles while expecting payment for its services is not a charitable endeavor. In addition, the applicant only presented testimony concerning a few times that it provided free services, and it is not clear whether those instances took place during the year in question. The applicant failed to present documentary evidence to substantiate the amount of its free services and the number of times that it provided them during 2017.

Without evidence that the applicant provided charity, it cannot be found that the applicant is a charitable organization. Nevertheless, the remaining evidence also supports a finding that the applicant did not meet its burden of proving clearly and convincingly that it is a charitable organization. With respect to whether the applicant derives its funds mainly from public and private charity, the applicant did not break down its income between pure donations and “donations” for which some type of service was provided. It is possible that the majority of the applicant’s income was payment for services. The applicant does not have a written policy concerning the reduction or waiver of fees, and because the applicant does not advertise, the general public may not be aware of the

applicant's services. Failing to adequately notify the public of a fee waiver policy or free services is considered to be an obstacle in the way of those seeking charity. See Alivio Medical Center, *supra*. Finally, as the Department has indicated, a portion of the property is used as personal residences for approximately 22 people, which is not a charitable activity. Although it is not clear exactly what percentage of the property is used for lodging, the property, nevertheless, is not used primarily for charitable purposes.

The applicant clearly provides an important service for the community. The applicant's intent to encourage people into healthier lifestyles by expecting payment from them is a noble pursuit; unfortunately, this goal raises doubts concerning the charitable nature of the organization. Laudable acts do not necessarily constitute charity. See Rogers Park Post No. 108, American Legion v. Brenza, 8 Ill. 2d 286, 291 (1956); Turnverein Lincoln v. Board of Appeals of Cook County, 358 Ill. 135, 144-145 (1934). As previously mentioned, exemption provisions must be strictly construed, and all doubts must be resolved in favor of taxation. Eden Retirement Center, Inc., *supra*. The party claiming the exemption must prove by clear and convincing evidence that it is entitled to the exemption. Provena I, at 388. Because the evidence presented by the applicant falls short of showing clearly and convincingly that the property qualifies for a charitable exemption, the request for an exemption must be denied.

Recommendation:

For the foregoing reasons, it is recommended that the four parcels of property are not entitled to an exemption for the year 2017.

Linda Olivero  
Administrative Law Judge

Enter: May 30, 2019